



State of Connecticut

DIVISION OF PUBLIC DEFENDER SERVICES

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Testimony of Deborah Del Prete Sullivan, Legal Counsel Office of Chief Public Defender

Raised Bill No. 6664 An Act Concerning Revisions to Various Statutes Concerning the Criminal Justice System

Committee on Judiciary March 16, 2009

Except for Section 13 which the Office of Chief Public Defender is opposed to, this office has concerns in regard to certain other sections as contained in *Raised Bill No. 6664, An Act Concerning Revisions to Various Statutes concerning the Criminal Justice System*. Where possible, proposed amended language is suggested which this office believes will alleviate the concerns while not changing the goal of the legislation.

Sections 1, 2, 3, 4, 5, 6, 7 - The proposal inserts "prosecutorial official" in lieu of "juvenile prosecutor". While not opposed to the general concept of juvenile prosecutors being in parity with assistant state's attorneys, "prosecutorial official" is undefined in the proposal. This office suggests that "prosecutorial official" be defined within the statutes. As an alternative, "prosecuting authority" a phrase already defined in Connecticut Practice Book §44-37 may be used in lieu of "prosecuting official".

Section 10 - This section would prohibit the Division of Public Defender Services from access to "state and local police reports and witness statements" on CJIS (Criminal Justice Information System) unless authorized by a prosecutor. While giving the total discretion for access to the prosecutor, the proposal would ignore the authority of the court, rules of court

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or statutory or caselaw which would provide access to the defendant of such documents. As a result, this office would oppose this section as drafted unless at the end of line 189 after the word "official" the words "Connecticut Practice Book rule, order of the court or other law" are inserted.

Sections 11 and 12 – This office suggests that at the end of lines 203 and 216, "for which a person has been arrested" be inserted. The inclusion of this language is believed to clarify the current language and insure that only persons *arrested* for a violation of probation would be subject to the penalties of C.G.S. §53a-172 and §53a-173.

Section 13 – This office is *opposed* to the proposed changes in this section. Current law provides that a person who has consensual sexual intercourse with another person and is more than 2 years older than that other person who is under the age of 13 years, he/she is guilty of sexual assault in the first degree. Current law exempts from prosecution for sexual assault in the first degree, persons who are within 2 years or less in age of each other who have consensual sexual intercourse. This exemption does not apply, however, to risk of injury, a serious juvenile offense.

The proposed language would eliminate the 2 year age difference exemption that currently exists for children under the age of 10 who consent to engage in this activity. As a result of this proposal, a 7 year old boy could be charged with sexual assault in the first degree if his conduct was with a 6 year old. Sexually reactive behavior between children under 10 years of age who are within 2 years of each other would be prosecuted. Consent would be irrelevant.

Section 15 – This office does not favor this section as drafted but offers the following proposed amendment which, if adopted, would eliminate this office's opposition:

Insert at the end of line 277 after the word "testimony"

"and if the court makes a finding by clear and convincing evidence that (1) there is no other person except such witness that can fulfill the role for the child and (2) that the witness' presence in the courtroom will not impair or undermine the truthfulness, veracity or integrity of the testimony of such witness."

Section 16 – This office believes that the language proposed in lines 369, 370 and 371 are redundant as access is already granted in C.G.S. §54-76l(b). (See lines 346 and 347)

In conclusion, this office is willing to work with Criminal Justice and this committee in regard to the concerns raised and language suggested.